

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4533 OF 2005

Mr.Anil Mittal & Anr. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr.Ganesh Gole i/b Mr.Arpan Rajput for Applicants.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondent No.1.

Ms.Usha Sruvastav for Respondent No.3.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 16, 2005.

P.C.

1. Heard Counsel for the parties.

2. As, on registration of F.I.R., investigation has been completed and charge-sheet is also filed, further the Trial Court has now framed the charges, the question of entertaining prayer for quashing of F.I.R. does not arise.

3. The argument of the Counsel for the Applicants that the Applicants are not involved in the alleged offence, which can be made good on the basis of observations made by the Sessions Court while entertaining the Anticipatory Bail Application of the Applicants, to my mind, cannot be the basis to accept the argument that no offence is made out. Counsel for the Applicants would then contend that already recovery suit has been filed against the Applicants by the Complainant. That does not mean that the criminal action cannot proceed against the Applicants, if offence is made out and proved during the trial.

4. As mentioned earlier, charge is already framed against the Applicants. The fact that the Applicants had retired much prior to the incident in question and were not associated with the affairs of the Respondent No.2 Company at the relevant time, is a matter of evidence. The charge framed is one under Section 406, 420 read with Section 34 of the Indian Penal Code. All such questions will have to be considered at the trial, after the evidence has been adduced by the

respective parties. Dismissed. All questions are left open.

5. It is made clear that the Trial Court will decide the matter as against the Applicants on its own merits without being influenced by the rejection of the present Petition.

A.M.KHANWILKAR, J.